# INITIAL STATEMENT OF REASONS

Eligibility and Priority in the California State Preschool Program

## INTRODUCTION

The California Department of Education (CDE) has administered subsidized early education services since the Child Care and Development Services Act (Act) was established in 1980, chapter 2 of part 6 of the Education Code (EC), starting at section 8200 et seq. The intent of the Act is that qualified subsidized early education services be provided to children and families meeting the eligibility criteria established under the Act. This became known as the Early Education Act in 2021.

The California State Preschool Program (CSPP) as established by EC section 8207, provides three- and four-year-old children with a developmentally appropriate program designed to facilitate their transition to kindergarten. This program includes education, development, health services, social services, nutritional services, parent education and participation, evaluation, and staff development.

On June 30, 2022, the Governor signed the fiscal year 2022–23 Budget Trailer Bill for the Early Education Act, Assembly Bill (AB) No. 210, which amended EC sections 8205, 8208, 8210, 8211, 8213 and 8244 to change contractor requirements regarding non-countable income, the income threshold for eligibility, eligibility categories, priority for services and serving children with disabilities in the CSPP.

On September 27, 2022, the Governor signed AB No.185 (Stats. 2022, ch. 571), which amended, among other sections, EC sections 8208, 8210, 8211, and 8217 to provide additional clarification on contractor requirements regarding eligibility, priority for services, and serving children with disabilities in CSPP.

AB No. 210 specifically made the following changes for CSPP programs effective July 1, 2022:

* All families, whether full-day or part-day, enrolled, or beginning services, on or after July 1, 2022, shall receive at least 24 months of eligibility as described in the directive below.
* The income eligibility threshold to qualify as income-eligible for services has been increased from 85 percent of the State Median Income (SMI) to 100 percent of the SMI.
* Three- and four-year-old children are eligible for CSPP services, regardless of family income, if the child has exceptional needs, as defined in EC section 8205.
  + Only the children in the family who are children with exceptional needs may be enrolled under this eligibility criteria. Any other child in the family without exceptional needs may be enrolled pursuant to any of the other eligibility criteria.
* Priority for CSPP services has been added for children with exceptional needs, Transitional Kindergarten (TK) and kindergarten (K) age children enrolling in extended learning and care in part-day CSPP, and children from families with incomes that are no more than 15 percent above the income threshold in full-day CSPP.
* Contractors must set aside certain percentages of their agency’s funded enrollment to serve children with exceptional needs. Funded enrollment is defined for these purposes.
* The requirement that children must require the special attention of adults in a child care setting in order to meet the definition of a child with a disability was deleted.
* Removed the following types of income from being included as income for purposes of determining eligibility for CSPP pursuant to section 8213:
  + Payments made on behalf of a child pursuant to section 11460, 11461.3, 11461.36, or 11461.4 of the Welfare and Institutions Code (WIC).
  + Guaranteed income payments received by an individual. “Guaranteed income payments” mean unconditional, recurring, regular cash payments, whether publicly or privately funded, that are intended to support the basic needs of eligible recipients, including, but not limited to, payments provided through pilot programs and projects receiving funding from the California Guaranteed Income Pilot Program (ch. 16, commencing with section 18997, pt. 6, div. 9 of WIC).

AB No. 185 specifically made the following changes for CSPP programs effective September 27, 2022:

* CSPP contractors with a state preschool site within the attendance boundary of a public elementary school, except a charter or magnet school, where at least 80 percent of enrolled pupils are eligible for free or reduced priced meals (FRPM) (referred to in these regulations as “Neighborhood School Eligibility”), may now enroll three-year-old children that live within the elementary school’s attendance area in addition to four-year-old children.
* Families with incomes that are up to 15 percent over the income threshold are now eligible for full-day CSPP. No more than 10 percent of the total contract may be children enrolled under this provision. These families are still required to have a need for services.

AB No. 210 and AB No. 185 authorized the State Superintendent of Public Instruction (SSPI) to provide guidance and instruction to implement EC sections 8208, 8210 and 8211 through a Management Bulletin (MB) on or before December 1, 2022, pending initiation of the regulatory process, which must occur no later than December 31, 2023. The CDE released guidance on these topics in MB 23-01 and MB 23-02.

On September 30, 2022, the Governor signed Senate Bill (SB) No. 1047 (Stats. 2022, ch. 923,) and AB No. 321 (Stats. 2022, ch. 903,), which changed priorities for enrollment and eligibility beyond the changes in AB 185. As a result, the following changes took effect January 1, 2023:

* Children from families in which the primary home language is a language other than English when two or more families have the same income rank on the Income Ranking Table will be prioritized for services.
* Families who have a member of their household who is certified to receive benefits from Medi-Cal, CalFresh, the California Food Assistance Program, the California Special Supplemental Nutrition Program for Women, Infants, and Children, the federal Food Distribution Program on Indian Reservations, Head Start, Early Head Start, or any other designated means-tested government program, as determined by the department, will have categorical eligibility as of January 1, 2023. Currently, the CDE has designated The California Work Opportunity and Responsibility to Kids (CalWORKs) as an additional means-tested government program. Children eligible for services pursuant to this subparagraph shall be prioritized by the income declared on the application for the means-tested government program.

SB No. 1047 authorized the SSPI to provide guidance and instruction to implement these changes through issuance of guidance of other written directives. The CDE released guidance on these topics in MB 23-01.

On July 10, 2023, the Governor signed SB No. 116 (Stats. 2023, ch.41) which, among other things, eliminated the third priority for services that gave four-year-old children enrolled in a state-funded transitional kindergarten program priority over three-year-old children and revised the remaining priorities accordingly.

On September 13, 2023, the Governor signed SB 140 (Stats. 2023, ch. 193) and SB 141 (Stats. 2023, ch. 194), which among other things, delineated part-time preschool services as fewer than 25 hours per week and full-time services as 25 hours or more per week for reimbursement purposes and amended the priority language in EC sections 8210 and 8211, changing the reference from children from families whose primary language is a language other than English to dual language learners.

The objective of these proposed regulations includes fulfilling the Legislature’s directives in AB 210, AB 185, SB 1047, AB 321, SB 140, SB 141, and SB 116 to amend requirements pertaining to eligibility, priority, serving children with disabilities, and non-countable income for purposes of CSPP eligibility. These proposed regulations will align the regulations to current law ensuring more efficient administration of the CSPP.

## PROBLEM AGENCY INTENDS TO ADDRESS

The CDE has conducted a comprehensive review of the California Code of Regulations (CCR), title 5, chapter 18.5, which addresses the program requirements for CSPP services, including eligibility and priority for services. As a result of this review, the CDE has determined there is a need to revise and update the regulations pertaining to the determination of eligibility for enrollment, priority of services, and requirements for serving children with disabilities to meet the statutory changes to state requirements referenced above as well as to further clarify and streamline existing regulatory process related to certification and recertification and documentation requirements related to Neighborhood School Eligibility.

The revisions are intended to help ensure consistent and accurate application and implementation of certifying, recertifying, prioritizing, and serving families in the California State Preschool Program.

## BENEFITS ANTICIPATED FROM REGULATORY ACTION

The benefit of enacting the proposed regulations will be the alignment of title 5 of the CCR with the statutory changes from AB No. 210 (Stats. 2022, ch. 62), AB No. 185 (Stats. 2022, ch. 571), and SB No. 1047 (Stats. 2022, ch. 923) on eligibility, priority and serving children with disabilities in the CSPP. The contracting agencies will further benefit through the clarification and streamlining of existing processes related to certifications, recertifications, and documentation of eligibility. This regulation package will further clarify which requirements are applicable for full-day CSPP versus part-day CSPP. These regulations will improve clarity, consistency, and efficient administration of the CSPP for contractors.

## SPECIFIC PURPOSE OF EACH SECTION – GOV. CODE SECTION 11346.2(b)(1)

The specific purpose of each adoption or amendment, and the rationale for the determination that each adoption or amendment is reasonably necessary to carry out the purpose for which it is proposed, together with a description of the public problem, administrative requirement, or other condition or circumstance that each adoption or amendment is intended to address, is as follows:

General changes were made to the proposed regulations to include grammatical edits, updated citations to the Education Code, and renumbering and/or re-lettering to reflect deletions or additions. All references to “12-months” or “12-month certification period” were removed and replaced with “certification period,” as defined in proposed section 17700(o), to ensure consistency in the regulations and reduce potential errors moving forward. Additional terminology changes were made throughout these proposed regulations to change the term “children with exceptional needs” to “children with disabilities” and to change the terms “CSPP FRPM Site” and “CSPP FRPM Eligibility” to “CSPP Neighborhood School Site” and “CSPP Neighborhood School Eligibility” respectively to reflect the language used in the profession. Acronyms were spelled out in the first section of each article in which they were used to ensure clarity.

### SECTION 17700. Definitions.

**Proposed Section 17700(d)(16)** is added to include foster care payments as non-countable income for the CSPP. This is necessary to align with the statutory changes to EC section 8213 removing foster care payments as countable income.

**Proposed Section 17700(d)(17)** is added to include guaranteed income payments as non-countable income for the CSPP. This is necessary to align with the statutory changes to EC section 8213 removing guaranteed income payments as countable income.

**Proposed Section 17700(o)** is added to include a definition for “certification period.” This is necessary as defining a term and then using that term throughout the regulations rather than repeatedly specifying the length of eligibility prevents the Department from having to update multiple sections of regulation at a later point if the eligibility period for the CSPP is amended in statute again.

**Proposed Sections 17700(o)(1) and (2)** are added to specify the certification periods prescribed in the EC as a result of AB 210. This is necessary so that the regulations align with statute.

**Proposed Section 17700(ai)** is added to include a definition for “funded enrollment” as set forth in EC section 8205 pursuant to AB 210. This is necessary to ensure that consistent terminology is used throughout the state and these regulations.

**Proposed Section 17700(aj)** is added to include a definition for “guaranteed income payments” as amended in EC section 8213 pursuant to AB 210. This is necessary to ensure that consistent terminology is used throughout the state and these regulations.

**Section 17700(bb)** is amended to change “the free and reduced priced meal program” to “free and reduced priced meals”. This change is necessary to align with EC section 8217, which requires that the students are eligible for free and reduced priced meals, not for the free and reduced priced meal program.

**Section 17700(bd)** is amended to remove “full-day” from the definition of “Recertification”. This change is necessary due to the introduction of 24-month eligibility recertifications which, pursuant to AB 210, will now be applicable to both part-day and full-day CSPPs.

**Former Section 17700(b*l*)(11)** is deleted to remove “foster care grants, payments or clothing allowance for children placed through child welfare services” from the definition of “Total countable income”. This is necessary to align with the changes in EC section 8213 to remove foster care payments as countable income in the CSPP.

### SECTION 17729. Verification of CSPP Contractor Site(s) within Qualified FRPM Elementary School Attendance Boundary.

**Section 17729(a)** is amended to clarify that the contractor is required to submit applicable documentation and obtain written approval from CDE prior to enrolling children using Neighborhood School Eligibility. This is necessary to ensure that contractors understand what documentation they are required to submit to CDE to obtain initial approval for operating as a CSPP Neighborhood School Site.

**Proposed Section 17729(a)(1)** is added to require contractors to determine which elementary school’s boundary the CSPP site sits within and to document it. This is necessary because EC section 8217 requires that a contractor’s site be located in the attendance boundary of a public school that meets certain requirements in order to enroll children based on Neighborhood School Eligibility.

**Proposed Section 17729(a)(1)(A)-(C)** is added to provide the three different options for contractors to document within which elementary school boundaries the CSPP site sits within. These options include (1) using the school district or county office of education’s online tool to determine the school boundaries, (2) utilizing a printed or online map of the school district that indicates that the CSPP site is within the school boundary, or (3) contacting the elementary school for boundary information and obtaining a signed statement from the principal that the CSPP site address sits within the school’s attendance boundary. This is necessary to ensure contractors have multiple ways to access the necessary information to use Neighborhood School Eligibility while still maintaining a way for CDE to verify that a site is within the boundaries claimed by the contractor.

**Proposed Section 17729(a)(2)** is added to clarify how contractors are required to determine if the elementary school’s boundary that their CSPP site is within is a qualified FRPM school. This is necessary to ensure contractors know how to find the required information to make this determination.

**Proposed Section 17729(b)** is added to include the requirement of contractors that have CSPP Neighborhood School Sites to re-verify annually that the site remains a CSPP Neighborhood School Site and clarifies the documentation the contractor needs to keep on file for monitoring purposes. This is necessary as circumstances may change year to year and ensures contractors understand the annual requirements and can access the information they need to retain, in order to continue operating as a CSPP Neighborhood School Site.

**Proposed Section 17729(c)** is added to clarify that the authorization to operate as a CSPP Neighborhood School Site is only valid for one program year at a time, and if more than a year lapses in eligibility, the contractor is required to go through the initial process in subsection (a) again before enrolling more children with Neighborhood School Eligibility. This is necessary to ensure it is clear how long the site verification is applicable for to reduce the number of families that are enrolled in CSPP inaccurately.

### ****Proposed Section 17732.1. Funded Enrollment Set Aside for Children with Disabilities****

**Proposed Section 17732.1(a)** is added to align these regulations with the requirement in EC section 8208 that requires CSPP contractors to set aside a percent of their funded enrollment for children with disabilities. This is necessary to ensure that these regulations are in alignment with statute.

**Proposed Section 17732.1(b)** is added to clarify when a child can be enrolled under the set aside and includes in that provision instances when a child’s Individualized Family Service Plan (IFSP) lapses before their Individual Education Program (IEP) assessment is completed by no fault of the family or contractor. This is necessary to ensure that a child in this circumstance can be counted toward the set aside while the process to implement an IEP is underway and does not penalize the contractor or family due to the delay in the process.

**Proposed Section 17732.1(c)** is added to ensure that contractors adopt a written policy to notify families that they are required to provide up-to-date copies of the IFSP or IEP and inform the contractor of any changes to the IFSP or IEP. This is necessary to ensure contractors have the most up-to-date information to best support the child in the classroom, and to ensure contractors are accurately reporting on the set aside and adjustment factor for children with disabilities.

### ****SECTION 17734. Family Fee Assessment: Explanation to Families.****

**Section 17734(a)** is amended to remove “full-year” because there are instances where a full-day program can operate part-year. This is necessary to align regulations with statutory requirements that families enrolled in full-day programs are required to pay a family fee pursuant to EC section 8252.

**Proposed Section 17734(c)** is added to ensure that if a child with disabilities is enrolled in CSPP through placement by the IEP, the Local Educational Agency (LEA) is responsible for payment of the family fee, not the family. This is necessary to ensure that families are not charged for such placement, as a child that is placed in a program pursuant to an IEP has been placed there to ensure the child’s right to a free and appropriate public education.

**Renumbered Section 17734(d)** is amended to clarify that the family fee is based on the child in the family who is certified for the greater number of hours rather than the child who is enrolled for the longest period. This is necessary as the previous language was not clear and led to confusion in the field. It is also amended to state that the family fee shall be assessed and collected based on the same factor, regardless of whether the child certified for the greatest number of hours has been placed in the CSPP pursuant to an IEP or not. This is necessary to ensure that contractors are aware that the responsibility of the LEA to pay the family fee when a child is placed in the CSPP pursuant to an IEP does not change, even if the child has a sibling that is subsequently enrolled in state-subsidized childcare.

### ****SECTION 17746. Enrollment Priorities for Part-Day California State Preschool Program.****

**Section 17746(b)** is amended to give second priority to three- and four-year-old children with disabilities from families that are income eligible that enroll outside of the funded enrollment set aside, in order of income ranking from lowest to highest. This is necessary to ensure that contractors have accurate information in regulation that is aligned with the statutory changes in EC section 8210(a)(2).

**Renumbered Section 17746(c)(1)** is amended to give third priority to both three- and four-year-old children but exclude children enrolled in transitional kindergarten or children with disabilities whose family income is not within income eligibility threshold in EC section 8213. This is necessary to ensure contractors have accurate information and that the regulation is aligned with the statutory changes in EC section 8210(a)(3)(A).

**Proposed Section 17746(c)(2)** is added to state that within this third priority category, children from families with the lowest income ranking are to be enrolled first. If there are two or more families with the same income ranking, the child who is a dual language learner shall be admitted first and if there is no such child, then the child on the waiting list the longest shall be enrolled first. This is necessary to ensure contractors have accurate information in regulation that is aligned with the statutory changes in EC section 8210(a)(3)(B).

**Proposed Section 17746(d)** is added to include the fourth priority of services for families with incomes that are no more than 15 percent above the income eligibility threshold and to specify that children enrolled under this priority category, with the exception of children with disabilities, may not exceed 10 percent of the total CSPP’s contract enrollment. Within this priority, children with disabilities who are not enrolled in the funded enrollment set aside are to be prioritized first, and thereafter, four-year-old children without disabilities are to be prioritized over three-year-old children without disabilities. These changes are necessary to align the priorities in regulation with the changes that were made in EC section 8210(a)(4).

**Former Section 17746(d)(1)** is deleted, and a portion of this subsection has been moved to proposed section (d). This change is necessary to align with the priorities in EC section 8210(a)(4).

**Former Section 17746(d)(2)** is deleted. This change is necessary to align with the priorities in EC section 8210 which specify a priority for contractors enrolling families under Neighborhood School Eligibility and for purposes of extended learning and care but do not specify a priority for enrollment of a child with disabilities whose family’s income is above the income eligibility threshold. However, such a child may still be enrolled after all other children, as set forth below in proposed section 17746(f).

**Renumbered Section 17746(e)(1)** is amended to include three-year-old children in the Neighborhood School Eligibility priority. This change is necessary to align with statutory changes in EC section 8210(a)(5)(A).

**Renumbered Section 17746(e)(2)** is added to include the priority for children enrolling in CSPP for extended learning and care. This change is necessary to align with the changes made to EC section 8210(a)(5)(A).

**Former Section 17746(e)** is deleted from this section and moved to section 17750(d). This is necessary for better organization of these regulations and to ensure that contractors do not miss this requirement because it concerns eligibility determinations and not priorities.

**Former Section 17746(f)** is deleted because it is not applicable to part-day programs, as no part-day programs offer full-time services. This is necessary to ensure these regulations are accurate and do not cause confusion.

**Proposed Section 17746(f)** is added to clarify when families with children with disabilities who do not fit into any of the priorities can be enrolled. This is the only category of children enrolled in CSPP that is not prioritized in statute at this time. This is necessary to ensure all contractors are clear when a family that does not fit into the priorities can be enrolled.

**Section 17746 Note Section** is amended to provide the correct citation to EC section 8208.

### ****SECTION 17747. Enrollment Priorities for Full-Day California State Preschool Program.****

**Section 17747(b)** is amended to give second priority to three and four-year-old children with disabilities from families that are income eligible that enroll outside of the funded enrollment set aside, in order of income ranking from lowest to highest. This is necessary to ensure that contractors have accurate information in regulation that is aligned with the statutory changes in EC section 8211(a)(2).

**Section 17747(c)(1)** is amended to prioritize three- and four-year-old children but does not include children enrolled in transitional kindergarten or children with disabilities whose family income is not within income eligibility threshold in EC 8213. This is necessary to ensure contractors have accurate information in regulations that are aligned with the statutory changes in EC section 8211(a)(3)(A).

**Proposed Section 17747(c)(2)** is added to state that within this priority category, children from families with the lowest income ranking are to be enrolled first. If there are two or more families with the same income ranking, the child that is a dual language learner shall be admitted first and if there is no such child, then the child on the waiting list the longest shall be enrolled first. This is necessary to ensure contractors have accurate information in regulation that is aligned with the statutory changes in EC section 8211(a)(3)(B).

**Proposed Section 17747(d)** is added to include the fourth priority of services for families with incomes that are no more than 15 percent above the income eligibility threshold and to further specify that children enrolled under this priority category, with the exception of children with disabilities, may not exceed 10 percent of the total CSPP’s contract enrollment.

**Proposed Section 17747(d)(1) and (2)** are added to provide that within this fourth priority, three- and four-year-old children with disabilities that are not enrolled in the funded enrollment set-aside are to be prioritized first, and thereafter, four-year-old children without disabilities are prioritized over three-year-old children without disabilities. This change is necessary to align the priorities in regulation with the changes that were made in EC section 8211(a)(4).

**Proposed Section 17747(e)(2)** is amended to include three-year-old children in the Neighborhood School Eligibility priority. This change is necessary to align with statutory changes in EC section 8211(a)(5)(B).

**Former Section 17747(e)** is deleted from this section and moved to section 17751(f). This is necessary for better organization of these regulations and to ensure that contractors do not miss this requirement because it concerns eligibility determination and not priorities.

**Proposed Section 17747(f)** is added to clarify when families with children with disabilities who do not fit into any of the priorities can be enrolled. This is the only category of children eligible for enrollment in CSPP that is not prioritized in statute at this time. This is necessary to ensure all contractors are clear when a family that does not fit into the priorities can still be enrolled.

### ****SECTION 17748. Enrollment Priorities for Head Start Collaborative.****

**Section 17748(a)(2)** is amended to provide that the second priority for enrollment for CSPP contractors with Head Start Collaborative programs is for families with children with disabilities that are not enrolled through the funded enrollment set-aside. This is necessary to align the second priority for services in collaborative programs with the changes made in EC which require families with children with disabilities to receive second priority.

**Sections 17748(a)(3) and (4)** are amended to include three-year-old children in the same priority as four-year-old children. These changes are necessary for alignment with statute because pursuant to AB 116 (stat. 2023), EC section 8211 no longer prioritizes four-year-old children over three-year-old children for CSPP services.

**Former Section 17748(a)(5)** is deleted because three-year-old children are moved to the same priority as four-year-old children. This change is necessary for alignment with statute because EC section 8211 no longer prioritizes four-year-old children over three-year-old children for CSPP services.

**Section 17748 Note Section** is amended to include the citation to EC section 8208 which provides for children with disabilities.

### ****SECTION 17749. Age Limitations.****

**Proposed Section 17749(d)** is added to align these regulations with the statutory allowance in EC section 48000(l) which allows children enrolled in Transitional Kindergarten (TK) and Kindergarten to enroll in part-day CSPP for extended learning and care. This is necessary to ensure these regulations are in alignment with the statutory changes in EC.

### ****Section 17750. Eligibility Requirements for Part-Day CSPP.****

**Section 17750(a)** is amended to clarify what the only exception is to this section and align with the structure of section 17751. This is necessary for clarity and consistency through the regulations.

**Section 17750(b)(2)** is deleted as children with exceptional needs are now categorically eligible for part-day services pursuant to changes to EC section 8208. This is necessary to ensure these regulations are in alignment with the statute.

**Renumbered Section 17750(2)** is amended to include three-year-old children in addition to four-year-old children due to the changes to EC sections 8208 and 8217 which allow contractors to now admit three-year-olds under Neighborhood School Eligibility. This is necessary to ensure these regulations are in alignment with statute.

**Proposed Section 17750(c)** is added to clarify that when a family enrolls in part-day CSPP under another eligibility category other than income eligibility, the family is only required to self-certify their income for purposes of prioritization unless they choose to submit income documentation. This is necessary to ensure that for families that fall into this category, such as families experiencing homelessness and families with children with exceptional needs, contractors have a streamlined and uniform method to determine income since income documentation is not collected for eligibility purposes.

**Proposed Section 17750(d)** is added to this section from former section 17746(e). This is necessary as this section addresses eligibility and moving it to this section makes for better organization of these regulations and helps ensure that contractors do not miss this requirement because it concerns eligibility determination.

### ****SECTION 17751. Eligibility and Need Requirements for Full-Day CSPP.****

**Section 17551(a**) is amended to add the renumbered subsection (d) as explained below.

**Section 17751(b)** is amended by deleting and moving reference to the enrollment of three and four-year-old children meeting eligibility requirements under EC section 8208 but without a need for services to subsection (c) and adding a new eligibility category for full-day CSPP for families with incomes up to 15 percent over the income threshold. This is necessary to ensure that these regulations are in alignment with the changes to EC section 8208(d)(3) which provides that such families are now eligible for full-day services in addition to part-day services.

**Proposed Section 17751(c)** is added from subsection (b) and amended to include “pursuant to subsection (a) and (b)” to clarify that only after the families eligible in subsection (a) and (b) are enrolled, may the contractor enroll other families that do not have a need for services. This is necessary because (b) was added as a new category of eligibility; therefore, to ensure clarity for contractors when implementing this regulation, it needed to be specified that only after both (a) and (b) are met, the contractor may enroll other families.

**Section 17751(d), former subsection (c)** is amended to include three-year-old children as eligible under the CSPP Neighborhood School Eligibility. This change is necessary to align with changes to EC sections 8208 and 8217.

**Proposed Section 17751(e)** is added to this section from section 17763(e). This is necessary for better organization of these regulations and to ensure that contractors do not miss this requirement because it concerns the eligibility and need determination and impacts the family’s certified schedule.

**Proposed Section 17751(f)** is added to clarify that when a family enrolls in full-day CSPP under another eligibility category other than income eligibility, the family is only required to self-certify their income for purposes of prioritization and determining the family fee unless they choose to submit income documentation. This is necessary to ensure that for families that fall into this category, such as families experiencing homelessness and families with children with exceptional needs, contractors have a streamlined and uniform method to determine their income since income documentation is not collected for eligibility purposes.

**Proposed Section 17751(g)** is added to this section from former section 17747(e). This is necessary for better organization of these regulations and to ensure that contractors do not miss this requirement because it concerns eligibility determination.

### ****PROPOSED SECTION 17751.1. Eligibility for State-Subsidized CSPP Services****

**Proposed Section 17751.1** is added to this section from section 17763(b)(3) (which addressed whether a family met the documentation requirements of “need” for full-day CSPP) to clarify that eligibility requirements apply to both part-day and full-day CSPPs, regardless of whether a family has to have an established need for care. This is necessary to ensure that state funds are used appropriately, and contractors are not getting paid for care at the same time that children are enrolled in other state-funded early education programs, private schools, or public education programs such as TK or kindergarten.

### ****SECTION 17752. Initial Certification of Eligibility for Part-Day and Full-Day CSPP.****

**Section 17752(a)(4)** is amended to remove subsections (A) and (B) because they are no longer necessary with the addition of a definition for “certification period” in section 17700. This is necessary to ensure consistency throughout the regulations and remove potential for misalignment.

**Former Section 17752(b)** is removed from this section as it is already a requirement in section 17755. This is necessary to ensure clarity and consistency and reduce duplication in these regulations.

**Section 17752(b), former subsection (c)** is amended to clarify that this section is only applicable to full-day CSPP because Proposed Section 17752(c) is being added to address requirements for disenrollment for part-day CSPP and they are not the same as for full-day. This is necessary to ensure alignment with EC and provide clarity in these regulations.

**Proposed Section 17752(c)** is added to ensure that if fraud is committed or a family moves out of the state then even a part-day CSPP contractor can disenroll the family from the CSPP. This is necessary to ensure that the state is not funding preschool for children living in another state and that if fraud is committed that would invalidate the initial certification, then families do not continue to receive services. Note that, unlike for full-day CSPP, EC section 8208(e)(3) does not require families whose adjusted monthly income exceeds the income eligibility threshold to be disenrolled from services.

### ****PROPOSED SECTION 17752.5. Recertification of Eligibility for Part-Day CSPP****

**Proposed Section 17752.5** is added to set forth the process for recertification in part-day CSPP. This is necessary as previously recertification did not apply to part-day CSPP because the program year had a beginning and ending, and family eligibility did not cross multiple program years. However, with the change to eligibility increasing to 24 months due to changes to EC section 8208(b) the certification period for families will now extend across multiple program years. Therefore, to remain in line with the Legislature’s intent to not have children be removed from CSPP until kindergarten, it is possible that children may need to be recertified and thus necessary to implement a recertification process in part-day CSPP to ensure that children do not have to be re-prioritized for services between program years.

**Proposed Section 17752.5(a)** is added to set forth a 30-day deadline for responding to an application for part-day CSPP. This is necessary to ensure that the deadline is in alignment with the requirements for issuance of a Notice of Action (NOA) Application for Services and the process for recertification for full-day CSPP as set forth in sections 17782(b) and 17753(a) respectively.

**Proposed Section 17752.5(b)** is added to clarify the deadlines for recertifying and enrolling families in part-day CSPP. This is necessary to ensure that it is in alignment with the 120-day allowance for part-day certification in EC section 8208(b).

**Proposed Section 17752.5(c)** is added to require contractors to make the recertification process convenient and simplified for families by aligning this section with current section 17753(h) pertaining to full-day CSPP contractors. This is necessary to ensure that part-day families, like full-day families, have the same opportunities and flexibility when it comes to having to recertify.

### ****SECTION 17753. Recertification of Eligibility for Full-Day CSPP****

**Section 17753(a)** is amended to remove “recertify eligibility” and replace it with “make determinations on recertification” to clarify that the contractor has up to 30 days after the parent has signed the application for services to determine if the family is eligible or not. This is necessary for clarity to ensure contractors understand what is required of them.

**Section 17753(b)** is amended to remove the former 50-day timeline to recertify families, and instead replace it with a specific date by which all families must be recertified. Including the date of August 15 will allow contractors approximately 75 days to recertify all families since, pursuant to proposed section 17753(f), all recertifications will take place no later than June 30. This is necessary to reduce confusion for the contractor because with the change to EC section 8208(e)(2), which automatically allows eligibility through the end of a program year which is June 30, all families in CSPP will have the same recertification date when they are required to recertify.

**Section 17753(c)** is amended to change the date on which families must be notified of recertification information to May 1 and to allow recertification appointment dates to begin June 1. This is necessary to increase the time that the contractor has available to recertify all families and to reduce confusion for the contractor. With the change to 24-month eligibility (which provides for eligibility through the end of the program year, which is June 30), all families in CSPP will now have the same recertification date when they are required to recertify. This does not allow contractors to spread out the workload through the year, and instead concentrates all the recertification work in this period so additional time to establish appointments is necessary. By adding dates rather than calendar days, contractors will be able to follow the requirements more easily and with less opportunity for miscalculations resulting in findings during contract monitoring.

**Former Section 17753(e)** is deleted from this section as it is already a requirement in section 17755. This is necessary to ensure clarity and consistency and reduce duplication in these regulations.

**Proposed Section 17753(f)** is added to clarify that if the recertification appointment is prior to the end of the original certification period (June 1 through June 30), the contractor cannot use any of the information from the recertification to make changes to the original certification period because EC sections 8208(e)(1) and (2) prohibit contractors from redetermining eligibility during the certification period.

### PROPOSED SECTION ****17753.1. Enrollment in CSPP When Transferring from Another State Funded Early Childhood Program****

**Section 17753.1** is added to clarify the process for extending eligibility when a child transfers into CSPP from another state-funded early childhood program. This is necessary because all other state-funded early childhood programs are operated by the California Department of Social Services (CDSS) and the laws pertaining to CDSS programs similarly guarantee that families will have 24 months of eligibility, which must be extended to the end of the program year if the certification period would otherwise end before that time. This ensures that all children in state-subsidized early childhood programs are given the full certification period required by law.

### Section ****17755. Requirement to Report when Income Exceeds Statutory Threshold for Income Eligibility for Full-day CSPP****

The title of this section is amended to include “Full-day CSPP” because the clarification that this regulation only applied to full-day CSPP was previously in section 17752(b); however, subsection (b) was removed from section 17752 because it is duplicative of this section. This change is necessary to ensure the requirements are not unintentionally changed by clarifying that this section only applies to full-day CSPP and is not required of part-day CSPP.

**Section 17755(a) is amended to include “full-day”.** This is necessary to clarify that this section only applies to full-day CSPP pursuant to EC section 8208(e)(3) and is not required of part-day CSPP in the event someone fails to read the heading of this section.

### Section ****17756. A Family's Right to Voluntarily Request Changes****

**Section 17756(a)** is amended to include “as required” because not all changes require supporting documentation. For example, when a family’s need for services is based on the parents’ request in section 17754 there is no need for supporting documentation. This is necessary to give guidance to contractors and ensure that implementation is consistent across contractors.

**Proposed Section 17756(b)** is added to ensure that contractors notify families when the updated family fee schedule is released by CDE. This is necessary to ensure that families know when their family fee may be reduced due to changes in the fee schedule; therefore, they can better assess when to request a voluntary reduction to their family fee.

### ****SECTION 17757. Application for Services: Contents****

This section is amended to include “as applicable” to allow for instances when not all the information required in this section is applicable to each family. This is necessary to ensure that contractors are not requesting information from families that is not necessary for their specific child or family.

**Section 17757(d) is amended to remove reference to “part-day” to be inclusive of all CSPPs as** EC **section 8208 now provides that eligibility requirements for part-day and full-day CSPP are the same. This is necessary to ensure that there is no duplicative information in this regulation section when not necessary.**

**Proposed Section 17757(d)(6) is added, and Former Section 17757(d)(7) is deleted to be consistent with these regulations which use the term “child with a disability” rather than “child with exceptional needs.” “Child with a disability” is also re-ordered before families with incomes that are no more than 15 percent above the income threshold. This is necessary to ensure alignment with the organization of** EC **section 8208.**

**Proposed Section 17757(d)(7) is added to include a new eligibility category for means-tested government programs as required by SB 1047. This section also adds CalWORKs as an additional means-tested governmental program as determined by the CDE in alignment with authority granted to the Department in statute. This is necessary to ensure that all eligibility categories in these regulations are in alignment with** EC **section 8208 and it is understood by contractors that CalWORKs has also been determined to be a means-tested government program.**

**Former Section 17757(e) is deleted as the same eligibility categories are in subsection(d) because the eligibility categories that apply to part-day and full-day are now in alignment. This is necessary to ensure consistency and remove duplication in these regulations.**

**SECTION 17758. Contents of Family Data File**

**Section 17758(c)(1) is amended to include “pursuant to section 17700” to clarify which documentation is required for children with disabilities. This is necessary for clarity and consistency in implementation.**

**Proposed Section 17758(c)(6) is added to require parents of children enrolled in kindergarten to self-certify that the child is enrolled in kindergarten. This addition to documentation is necessary to ensure conformance with statutory requirements that families of five-year-old children are not eligible for CSPP unless using it for extended learning alongside kindergarten and to ensure families are not using CSPP as a replacement for kindergarten.**

### ****SECTION 17762. Documentation of Income Eligibility; Income and Family Fees****

**Section 17762(b)(2)** is amended to allow contractors to verify employment-related information by either using the documentation provided by the parent or by contacting the employer. This is necessary to reduce the administrative burden for contractors when the documentation provided by the parent already includes the information needed for the verification. This section is also amended to include “or total hours worked each week.” This is necessary to align with how need is determined.

### Section ****17763. Documentation of Need for Full-Day CSPP: In General****

**Section 17763(b)** is amended to combine former (b)(1) and (b)(2) and remove former subsection (b)(3) because it was moved to proposed section 17751.1. This is necessary for readability and to ensure state funds are used appropriately for both part-day and full-day CSPP. This section was further amended to add “When a family has a need for services pursuant to subdivisions (a)(1) through (9) above.” This is necessary because, in some instances, families can utilize full-day CSPP without having a “need” for services.

**Former Section 17763(e)** is deleted from this section and moved to section 17751. This is necessary because section 17751 addresses determinations of eligibility and need for full-day CSPP and therefore it should be included in the section on determining eligibility and need to ensure that this regulation is not missed by contractors.

### SECTION ****17766. Documentation of Need for Full-Day CSPP: Seeking Employment; Service Limitations****

**Section 17766(a)(1)** is amended to allow families to be certified for services for no more than five days per week and less than 10 hours per day. This is an increase from the previous limitation of less than 30 hours per week. This change is being made because the threshold of part-time care was moved from 30 hours per week to less than 25 hours per week in SB 140, ensuring that contractors receive full-time reimbursement for families that are certified for 25 hours or more per week. Contractors are reimbursed the same amount for full-time services regardless of the specific number of hours that families are certified for, which ensures that families can receive up to 50 hours per week without an increased cost to the state. This amendment is necessary to ensure families receive the service hours that they need and to provide consistency in allowed hours of certification with families enrolled in CSPP without a need for services.

### SECTION 17770. Documentation of Child’s Disability

The title of this section is amended to replace “exceptional needs” with “disability”. This is necessary for consistency in these regulations.

**Former Section 17770(b)** is deleted because the requirement to have a statement signed by a legally qualified professional was removed from EC section 8205 pursuant to AB 210.

**Proposed Section 17770(b)** is added to clarify additional documentation that the contractor is required to keep in the family data file. This change is necessary to ensure that contractors are keeping all the necessary documentation to accurately report to the CDE how they are meeting the required set aside pursuant to EC section 8208 and serving children with disabilities.

### SECTION ****17771. Documentation of Eligibility and Need: Family Experiencing Homelessness****

**Section 17771(d)** is amended to allow families to be certified for services for no more than five days per week and less than 10 hours per day. This is an increase from the previous limitation of less than 30 hours per week. This change is being made because the threshold of part-time care was moved from 30 hours per week to less than 25 hours per week in SB 140 ensuring that contractors receive full-time reimbursement for families that are certified for 25 hours or more per week. Contractors are reimbursed the same amount for full-time services regardless of the specific number of hours that families are certified for, which ensures that families can receive up to 50 hours per week without an increased cost to the state. This amendment is necessary to ensure families receive the service hours that they need and to provide consistency in allowed hours of certification with families enrolled in CSPP without a need for services.

### SECTION ****17772. Documentation of Need for Full-day CSPP: Seeking Permanent Housing; Service Limitations****

**Section 17772(a)(1)** is amended to allow families to be certified for services for no more than five days per week and less than 10 hours per day. This is an increase from the previous limitation of less than 30 hours per week. This change is being made because the threshold of part-time care was moved from 30 hours per week to less than 25 hours per week in SB 140, ensuring that contractors receive full-time reimbursement for families that are certified for 25 hours or more per week. Contractors are reimbursed the same amount for full-time services regardless of the specific number of hours that families are certified for, which ensures that families can receive up to 50 hours per week without an increased cost to the state. This amendment is necessary to ensure families receive the service hours that they need and to provide consistency in allowed hours of certification with families enrolled in CSPP without a need for services.

**Section 17773. Documentation of Eligibility and Need: Child Protective Services.**

The title of this section is amended to add “**Eligibility and Need**”. This is necessary for consistency throughout the regulations.

**Section 17774. Documentation of Eligibility: Family Residency for Neighborhood School Eligibility.**

The title of this section is amended to add the terms “**Eligibility**” and “Neighborhood School”. This is necessary for consistency throughout the regulations.

### PROPOSED Section 17774.5 Documentation of Eligibility: Public Assistance

**Proposed Section 17774.5(a)** is added to combine the documentation requirements for families eligible for CSPP because they are certified for a means-tested government program and for families eligible because the parent receives cash aid. It is necessary to combine these two eligibility categories to clarify one process of documentation collection for contractors because a family that receives cash aid is also a family that can be certified as participating in a means-tested government program pursuant to EC section 8213.5 therefore documentation requirements should be the same to reduce confusion among contractors.

**Proposed Section 17774.5(b)** is added to specify the process contractors must use to determine the income reported by the family for purposes of determining family fees and priority. This is necessary to align with the statutory requirements in EC section 8213.5(b) and ensure a consistent and fair process.

**Proposed Section 17774.5(c)** is added to align with the flexibilities contained in EC section 8213.5(a)(1) that allow contractors to verify this information through other means. This is necessary to reduce the administrative burden for contractors and families. Specifically, this flexibility would likely be used when a contractor is also a Head Start grantee and can verify the family is certified in Head Start, and thus determine the family income through such manner, without the family needing to provide additional documentation.

**Proposed Section 17774.5(d)** is added to clarify that a member of the household is the same as anyone counted in the “family” as defined in section 17700. This is necessary to ensure that contractors are interpreting the term “member of the household” consistently across the state.

### ****SECTION 17782. Notice of Action, Application for Services.****

**Section 17782(b)** is amended to clarify that the contractor is required to certify if the family is eligible on the NOA, Application for Services within 30 calendar days, instead of just sending the NOA within that time frame. While a contractor would not send the NOA without having certified if the family was eligible or not for CSPP services, the CDE determined that this was necessary clean-up language to ensure there is no confusion for contractors of what specifically is required of them.

**Section 17782(e)(1)** is amended to include “and need, if applicable” to ensure contractors also include the reason for needing services for full-day CSPP on the NOA. This clarification is necessary for consistent implementation across the state.

**Section 17782(e)(3)** is amended to remove specific references to 12-month eligibility and replace the reference to the certification period. This change is necessary to ensure consistency through these regulations.

**Proposed Section 17782(h)** is added to ensure the contractor sends the NOA to the family on the same day that it is signed by the contractor, which certifies the family or child for full-day CSPP services. While this is common practice for many contractors, the CDE has determined that it was necessary to clarify this requirement to ensure that all full-day CSPP families can access services immediately after the application for services is signed and their certification period begins and ensure implementation across the state is consistent.

### ****SECTION 17812. Determination of Reimbursable Amount****

**Proposed Section 17812(b) is added to clarify how contractors will still receive reimbursement for the set aside when not fully meeting the funded enrollment of children with disabilities as required by law. This is necessary to ensure that the regulations accurately explain how reimbursement is determined for the contractor.**

**Section 17812 Note Section** is amended to include the citation to EC section 8208 which provides for the set aside for children with disabilities.

## Article 5. Accounting and Reporting Requirements

### ****Section 17822. Report Data.****

**Section 17822(a) is amended to include the specific types of data that the CDE will collect from contractors. Administrative data is added to more accurately reflect the information that the CDE requests from contractors, and the addition of “child, family, teacher, and classroom data” is to ensure contractors understand the level of data that CDE will be asking for to comply with reporting requirements. This is necessary to ensure consistent implementation and data collection from all contractors.**

**Proposed Section 17822(d) is added to ensure that contractors are updating their agency information as changes occur and confirm the accuracy of the information annually. This is necessary to ensure that the CDE has the most up-to-date and accurate information for contract monitoring and reporting purposes.**

## Economic Impact ASSESSMENT PER GOV. CODE SECTION 11346.3(b)

### Purpose:

The proposed regulations are to provide CSPP contractors with clear direction to ensure implementation of the CSPP and application of these regulations are consistent throughout the state.

### Creation or Elimination of Jobs within the State of California:

There is no evidence that the proposed regulations will either create or eliminate jobs within California. These proposed regulations are designed to provide clear and consistent guidance for contractors operating a CSPP. These activities are currently being performed by existing staff and these regulations simply clarify and update the program requirements. Therefore, no jobs in California will be created or eliminated.

### Creation of New or Elimination of Existing Businesses within the State of California:

There is no evidence that the proposed regulations will either create or eliminate businesses within California. These proposed regulations are designed to provide clear and consistent guidance for contractors operating a CSPP. Since these regulations only impact contractors operating CSPPs, no businesses in California will be created or eliminated.

### Expansion of Businesses or Elimination of Businesses Currently Doing Business within the State of California:

There is no evidence that the proposed regulations will either expand or eliminate businesses within California. These proposed regulations are designed to provide guidance for current CSPP contractors. Since these regulations only impact current CSPP contractors, no businesses in California will be expanded or eliminated.

### Benefits of the Regulations to the Health and Welfare of California Residents, Worker Safety, and the State’s Environment – Gov. Code Section 11346.1(b)(1):

These proposed regulations will benefit children and families in California with continuity of care in California State Preschool Programs throughout the State.

These proposed regulations will have no adverse effect nor benefit on worker safety or the State’s environment.

### Reasonable Alternatives that Would Lessen the Impact on Small Businesses – Gov. Code Section 11346.2(b)(4)(B):

The SSPI has not identified any alternatives that would lessen any adverse impact on small businesses.

### Evidence Relied Upon to Support the Initial Determination that the Regulations Will Not Have a Significant Adverse Economic Impact on Business – Gov. Code Section 11346.2(b)(5):

The proposed regulations would not have a significant adverse economic impact on any business because they apply only to California State Preschool Program contractors and do not change their current practices in any significant way.

## INCORPORATED BY REFERENCE

No documents are to be incorporated by reference.

## OTHER REQUIRED SHOWINGS

### Studies, Reports or Documents Relied Upon – Gov. Code. Section 11346.2(b)(3):

The SSPI did not rely upon any technical, theoretical, or empirical studies, reports, or documents in proposing the adoption, amendment, or repeal of these regulations.

### Reasonable Alternatives Considered or Agency’s Reasons for Rejecting Those Alternatives – Gov. Code Section 11346.2(b)(4)(A):

No other alternatives were presented to or considered by the SSPI.

### Analysis of Whether the Regulations are an Efficient and Effective Means of Implementing the Law in the Least Burdensome Manner – Gov. Code Section 11346.3(e):

The proposed regulations have been determined to be the most efficient and effective means of implementing the law in the least burdensome manner.

### Determination of Inconsistent/Incompatible Existing Regulations – Gov. Code Section 11346.5(a)(3)(D):

An evaluation of the proposed regulations has determined they are not inconsistent/incompatible with existing regulations, pursuant to Government Code section 11346.5(a)(3)(D).

11-13-23 [California Department of Education]